

Constitutional Revision Commission

Commission Assignment

The Commission was created by legislation passed by the 2004 Legislature. The Commission was directed to conduct a comprehensive study of the legislative article (Article III) of the South Dakota Constitution and the related statutes pertaining to the Legislature and to consider and recommend legislation for the improvement of the legislative article and the related statutes pertaining to the Legislature. At the request of the Commission, the 2005 Legislature extended the Commission's study until the end of 2006. The Commission is required to make an interim report to the 2006 Legislature including any proposed amendments to the Constitution for the 2006 general election and to make a final report of its findings and recommendations to the 2007 Legislature.

Summary of Commission Activities

The Commission began its study by reviewing the provisions of Article III of the Constitution and receiving information on how South Dakota's legislative process compares with other states. Mr. Karl Kurtz, Director of State Services for NCSL presented to the Commission information comparing South Dakota's Legislature to the legislatures of other states. Mr. Kurtz also talked to the Commission about a study that is being conducted by NCSL regarding the effect of term limits. Professor Michael Libonati from Temple University, courtesy of the Council of State Governments, also made a presentation to the Commission. Professor Libonati gave the Commission an analysis of how the legislative article of the South Dakota Constitution compares with the legislative articles in other states and highlighted the strengths and weaknesses of our state's legislative article.

The Commission reviewed the background and history of each section of Article III. The provisions of the article were also compared with the provisions found in the legislative article of the Model State Constitution. In addition, the Commission took a look at the recommendations to Article III that were made by the Constitutional Revision Commission in 1974 and by the Legislative Article Review Commission in 1996. Recognizing that the changes to Article III recommended by these former Commissions were not adopted, the Commission decided early on in its deliberations to try to categorize any possible improvements into two categories. One category includes those minor improvements which would not be considered controversial and which try to address obsolete and antiquated provisions and provisions that need to be updated to allow the Legislature to operate more efficiently. The other category includes those improvements that would be more substantive changes and potentially more controversial. The Commission's goal was to try to address the "clean-up" improvements before making any recommendations regarding substantive changes.

The Commission is recommending to the 2006 Legislature three joint resolutions that it believes the Legislature should consider for placement on the 2006 general election ballot. These joint resolutions are viewed by the Commission as principally a "clean-up" to Article III which should be adopted before any further substantive changes to Article III are considered by the voters in the 2008 general election. These changes were shared with all legislators and all parties on the Commission's interested parties list prior to being recommended by the Commission. There were no objections raised to these proposed changes. Copies of those joint resolutions are attached.

For 2006, the Commission is planning on completing its analysis of substantive issues in Article III. Those issues that the Commission will be considering are legislator qualifications, the oath taken by legislators, term limits, conflict of interest, legislative reapportionment, single member districts, length of legislative terms, legislative compensation, and requirements for initiatives and referendums. The Commission has already had considerable discussion regarding legislative reapportionment and legislative conflicts of interest. At one of its early meetings, Mr. Reuben Bezpaletz presented the background information on constitutional provisions regarding legislative redistricting and on the various court decisions that have an effect on legislative redistricting. Commission Member Mark Barnett at that meeting presented background information on constitutional provisions regarding legislator conflicts of interest and on the various court decisions that help define those provisions. The Commission eventually appointed subcommittees on each of these issues to collect more background information and to work on possible options for the Commission to consider. The Commission has also appointed a subcommittee to take a closer look at how legislative compensation in South Dakota compares with other states and a subcommittee to review and make recommendations regarding the oath taken by legislators. The Commission will be reporting any suggested changes regarding these issues to the 2007 Legislature.

Also for 2006, the Commission is planning to work with the Legislature to help inform the voters about the Commission's recommendations appearing on the 2006 general election ballot. The Commission strongly feels that public education is a key element to the passage of these ballot measures.

Listing of Joint Resolutions Recommended

A joint resolution to revise certain constitutional provisions regarding the Legislature.

A joint resolution to revise certain constitutional provisions regarding private and special laws.

A joint resolution to repeal certain voided constitutional provisions regarding term limits for United States senators and representatives.

Summary of Meeting Dates and Listing of Commission Members

The Commission met on August 12, October 20 and 21, and December 16, 2004 and on April 20 and 21, September 14 and 15, and November 16 and 17, 2005. All Commission meetings were held in the State Capitol Building in Pierre.

Commission members included Retired Supreme Court Chief Justice Robert Miller, Chair; Dr. Robert Burns, Co-vice Chair; Dr. Donald Dahlin, Co-vice Chair; Mr. James Abbott; Mr. Mark Barnett; Mr. Steve Cutler; Lieutenant Governor Dennis Daugaard; Mr. Robert Drake; Dr. Sean Flynn; Mr. Jim Hutmacher; Mr. Gene Lebrun; Mr. Larry Lucas; Ms. Mary McClure Bibby; Mr. Ronald Olinger; Mr. Robert Roe; Mr. Brent Wilbur; and Supreme Court Justice Steven Zinter.

Staff members included David L. Ortbahn, Principal Research Analyst; Reed Holwegner, Chief Fiscal Analyst; and Reuben D. Bezpaletz, Chief Analyst for Research and Legal Services.